



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Insurance Commissioner

Title of rule and other identifying information: State of Washington United States Longshore and Harbor Workers' Compensation Act (USL&H) Assigned Risk Plan. This proposed amendment is the result of a petition (P.36) from the administrator of the USL&H Assigned Risk Plan.

Insurance Commissioner Matter No. R 2006-09

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY: November 21, 2006

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

In WAC 284-22-050(2), an applicant must obtain two denials of coverage in order to apply for coverage under the Washington USL&H Assigned Risk Plan. Currently, there are only five active USL&H insurers authorized in Washington and all have high minimum premium requirements, below which the insurers will not even consider applications for coverage. When this Assigned Risk Plan was created in 1992, it was understood that this Plan would provide a market of last resort. Because the Assigned Risk Plan maintains rates high enough to avoid competing with the voluntary market, that goal can be achieved without the two-denials requirement. The two-denial requirement in the definition of "applicant" is an unnecessary, burdensome, and inappropriate eligibility requirement and should be eliminated.

Reasons supporting proposal:

The current definition requires small-premium employers to "shop" for denials from insurers knowing they will be turned down without consideration. It is estimated by the Administrator of the USL&H Assigned Risk Plan that 85% of the Plan employer-participants cannot meet the minimum premium requirements of any insurer in the voluntary market. For these applicants, the two-denial requirement is a meaningless exercise that needlessly wastes time and resources. Thus, this requirement should be eliminated.

Statutory authority for adoption: RCW 48.02.060 and 48.22.070

Statute being implemented: RCW 48.22.070

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE
September 20, 2006

NAME (TYPE OR PRINT)
Mike Kreidler

SIGNATURE

TITLE
Insurance Commissioner

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CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 20 2006

TIME

WSR

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Name of proponent: Mike Kreidler, Insurance Commissioner

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

AMENDATORY SECTION (Amending Matter No. R 2001-10, filed 1/13/03, effective 2/13/03)

WAC 284-22-050 Definitions. (1) "Administrator" means any organization designated by the assigned risk plan and approved by the commissioner to provide administrative support for the plan. Such support shall be defined by the governing committee in its operating plan. It may include, but is not limited to, acceptance, processing, and distribution of incoming applications to the servicing carrier(s), collection of and accounting for premium income, determination of assigned risk plan reserves, investment of assigned risk plan assets, collection of statistical data, actuarial assistance for rate making, development of policy contracts, and auditing the activities of servicing carrier(s) to ensure that the assigned risk plan's rules are being applied properly.

(2) "Applicant" means an employer, seeking coverage from the assigned risk plan, who has, in good faith, ~~((sought))~~ been unable to purchase United States Longshore and Harbor Workers' Compensation Act coverage from ((at least two of the)) authorized insurers writing such coverage in Washington ~~((and has been declined such coverage by all insurers from which it has sought coverage))~~. "Applicant" does not include employers seeking coverage through the plan solely because of the lack of availability of maritime employers' liability coverage.

(3) "Authorized insurer" means any insurance company licensed to write workers' compensation insurance on a direct basis in this state.

(4) "Commissioner" means the commissioner of insurance of the state of Washington.

(5) "Governing committee" means the committee responsible for administering the assigned risk plan. It shall consist of thirteen members, who shall be appointed by the commissioner. The director of the department of labor and industries shall be one member. The remaining members shall be selected to insure equal representation of each of the following interest groups; authorized insurers writing primary or excess workers' compensation insurance, insurance producers, organized labor, and maritime employers.

(6) "Maritime employers' liability" means that liability imposed by 46 U.S.C. 688 (the Jones Act) and general maritime law for bodily injury including death of a master or member of the crew of any vessel.

(7) "Servicing carrier" means any authorized insurer designated by the assigned risk plan and approved by the commissioner and the United States Department of Labor to issue workers' compensation policies. It shall issue policies on behalf of the assigned risk plan, provide safety engineering, handle

claims incurred by those covered by the assigned risk plan, provide premium audits, perform underwriting functions, and perform other duties as defined by the governing committee in its operating procedures.

(8) "State industrial insurance fund" means that entity defined in RCW 51.08.175 which provides primary workers' compensation insurance on a direct basis in this state.

(9) "United States longshore and harbor workers' compensation coverage" means that workers' compensation coverage required of employers by the United States Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Secs. 901 through 950. It is hereinafter referred to as USL&H coverage.

(10) "Written premium" means gross direct premiums (excluding premiums on risks written ceded to the assigned risk plan), within the state of Washington, charged during the first preceding calendar year with respect to United States Longshore and Harbor Workers' insurance, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.